ANNUAL REPORT
1983

The Manitoba Labour Management Review Committee

944-3371
Telephone: [redacted]

THE MANITOBA LABOUR MANAGEMENT REVIEW COMMITTEE

606
Room [redacted], Norquay Building Winnipeg, Manitoba, R3C 0V8

The Honourable Mary Beth Dolin
Minister of Labour
Province of Manitoba
Room 343, Legislative Building
WINNIPEG, Manitoba
R3C 0V8

Dear Mrs. Dolin:

On behalf of the Manitoba Labour Management Review Committee, I have the honour to submit to you its Annual Report for the year ending December 31, 1983.

The Committee hopes the report will be informative and useful to members of the Legislative Assembly.

Yours truly,

G. C. MacLean, Q.C.
Chairperson
Manitoba Labour Management
Review Committee

ANNUAL REPORT OF THE MANITOBA LABOUR-MANAGEMENT REVIEW COMMITTEE

January to December 1983

Origin and Background

The Manitoba Labour-Management Review Committee is commissioned to undertake a continuing and comprehensive review of labour legislation and labour-management relations in the province.

This joint Committee, with equal representation from labour and management, came into being as the culmination of a process which began in 1963. Several joint labour-management seminars were held over a 12-month period which were designed to examine the main aspects of industrial relations in Manitoba. Labour and management representatives attended these sessions, and a consensus developed that the establishment of a permanent Committee representing both parties would make a valuable contribution to labour-management relations. In the Speech from the Throne of February 1964, the government forecast action on this matter. Two months later the Committee was established and its existence was unanimously approved by a resolution of the Legislature.

Purpose

The Joint Committee was designed to fulfill a two fold purpose. First, it was charged with the specific responsibility of reviewing labour legislation as embodied in various Acts of the Manitoba Legislature. The second purpose was to undertake, at the Committee's own discretion, a far-reaching examination of common problems. There was no thought that these problems would necessarily be solved, but rather that discussion would lead labour and management to a better understanding of each other's point of view. Ultimately such an undertaking might lead to an intangible, but virtually important improvement, in labour-management relations within the Province. There is agreement that progress has been made on both fronts.

Statement of Principles

The principles which have guided the Committee in attempting to fulfill its purpose, adopted early in the Committee's history are as follows:

> That labour members have the obligation to look after the labour interests; that management members have the obligation to look after management interests; that each member should prepare to co-operate with the Chairman and other members of the Committee and should have a sense of responsibility to the process itself, an attitude of integrity and good faith; that each member should approach the work with the intention of giving it honest support and effort, with flexibility of mind and patience, avoiding pre-judging; listening and evaluating carefully, in an attempt to understand the position of others and;

That within the framework of the foregoing, the Committee should give recognition to the importance of legislation which protects fundamental rights and freedoms of employees, employers, unions, and employers' associations, and enforcement provisions designed to induce appropriate patterns of behaviour in labour relations.

Membership and Methods of Operation

The Committee functions at various levels and through the operation of several groups.

From its inception until 1975, the membership of the Committee consisted of a Chairperson, Vice-Chairperson and an equal number of labour and management members, nominated by several sponsoring groups. The Manitoba Federation of Labour was asked to name 12 labour representatives to the Committee. Organizations representative of management - The Canadian Manufacturers' Association, The Chamber of Commerce, The Mining Association of Manitoba Incorporated, and the Winnipeg Construction Association (Winnipeg Builders' Exchange) were asked jointly to name 12 members. In 1975, the Committee's membership was more than doubled to include representatives of employees and employers in various public service areas of the Province, including the Provincial civil service, Crown corporations, health care facilities, public schools, universities and municipal government, including fire and police services. The expanded Committee also included representatives of agencies such as The Civil Service Commission, The University Grants Commission, and the Manitoba Health Services Commission which are representative neither of the employer nor the employee side,

but nonetheless are interested in labour-management relations and the collective bargaining process in the public sector. The sponsoring groups are asked periodically to review their membership on the Committee and to name replacements as required. Nominations for membership on the Committee are submitted to the Minister of Labour for endorsation before informing the nominees of their formal appointment.

Meetings of the whole Committee are held at the discretion of the members.

Until September of 1982, a Sub-Committee, consisting of six labour and six management members equally representative of both the private and public sectors, existed to facilitate discussion of matters in detail and to plan the Committee's work within guidelines established by the Committee as a whole. This group met more frequently and reported its recommendations to the whole Committee, for approval, rejection, or amendment.

The Committee also operated through two panels - one consisting of all the private sector labour and management members, the other of all representatives from the public services and agencies. The intent was to enable members to concentrate on their special areas of interest. Recommendations from either of these panels were reviewed by the Sub-Committee and were subject to final consideration by the whole Committee.

Following a review by the sub-committee of the existing Committee structure in 1980, two main objectives materialized: to reduce the unwieldy size of the Committee, while retaining its broad representative structure; and to simplify the structure itself.

In mid 1982, the sub-committee approved and forwarded to the Minister of Labour, a proposal providing for eleven sectors, with ten specific industrial sectors and one sector representing labour and management-at-large. Labour and management from each sector were asked to provide a nominee to the main Committee, for a total of twenty-two members.

In 1983, representation for ten sectors - Provincial Public Service, Schools, Labour and Management At Large, Mining and Processing, Manufacturing, Health, Construction, Municipal Public Service, Trade and Service, and Utilities - had been nominated and appointed. One resignation has left vacant the management nominee for the Municipal Public Service sector. This will be filled early next year. The Universities sector has yet to find appropriate representation.

During the year several new working groups or sub-committees have been established to deal with specific industrial sector-related issues or concerns. The sub-committee on Disclosure and Technological Change Issues has been established to deal with matters as they relate to plant closings, disclosure and changes due to recent technological advances in the micro-electronics field.

The Committee has felt since its inception that, in general, free and frank discussions would be assisted if meetings were held <u>in camera</u>.

The minutes of meetings and reports of work groups are therefore confidential to members of the Committee and their alternates - no members are named in the proceedings. Formal communication with the government or outside groups is carried on at the discretion of the member.

From time to time the Committee decides to examine issues of broad interest to labour and management and therefore organizes seminars or conferences to which other interested individuals and groups are invited. The proceedings of these conferences are published when they are felt to be of lasting value and of interest to a wide readership.

The Committee was assisted in its work by the research facilities of the Manitoba Department of Labour. Staff of the Department also functions as the Committee's secretariat. In addition, the Department provides financial support for Committee conferences and for engaging outside experts to prepare studies or to address the Committee to assist it in gaining knowledge and perspective on particular problems.

When the Committee arrives at a decision, with majority support from each side, the recommendations for action are then forwarded to the government or to the appropriate body. Such recommendations may or may not be made public at the Committee's discretion.

Labour and management members serve voluntarily on the Committee without remuneration for the time they devote to its work.

REVIEW OF 1983

The Committee entered the new year as a fully reorganized, more compact and more responsive body composed of many of Manitoba's leading labour and management figures.

Gull Harbour Seminar

Recognizing that Committee membership was, for the most part, new, it was decided that a two-day retreat was needed in order to: orient the members to the role of the Committee; give the members an opportunity to become familiar with each other in order to develop an atmosphere of trust and cooperation; hear members' expectations for the Committee; and discuss upcoming issues of importance and methods of dealing with those issues.

Throughout the deliberations it was made very evident that the Committee expected to be listened to by government and that the Committee must continue to be independent of government.

Present as a guest at the retreat was the Minister of Labour who agreed with and supported the aims of the Committee. In referring to the Committee's mandate, the Minister stated that she is not afraid to share power if that sharing is done in a constructive manner.

Committee Activities

The Committee undertook and completed a number of projects in 1983. Among these were:

1) Recommendation on the placement of the Dominion Day Holiday

Dominion Day, which falls on July 1, is a floating holiday and as such, is observed on whichever day of the week July 1 actually falls. This situation creates confusion and inconvenience for workers and businesses alike. Some businesses place the holiday on July 1 itself, while others will observe either the preceeding Friday or the following Monday as a paid holiday. This results in some places of employment being closed while others remain open on the same day.

In April of 1983, the Committee, forwarded to the Minister of Labour and Employment Services a recommendation that the Government of Manitoba request the Government of Canada to designate the first Monday in July as Dominion Day, with this day being a paid holiday.

Mindful of the fact that there was a possibility that such a suggestion may not be acceptable to the Government of Canada, the Committee recommended an alternative - that the Province of Manitoba, provide by legislation:

1) That Dominion Day be celebrated on the day on which it falls;

2) That where Dominion Day falls on a Saturday or Sunday, the following Monday be designated a paid holiday.

As of December 31, 1983 there was no response from the Minister on these recommendations.

2) ARBITRATION CHAIRPERSONS LIST

A Working Group of the Manitoba Labour Management Review Committee was struck to deal with the issue of Arbitrators who are appointed by the Minister of Labour under The Labour Relations Act. Both Labour and Management share the concern that assigned arbitrators be acceptable to both parties to a dispute.

The Working Group studied the situation and made the following recommendations, which have been endorsed by the Main Committee and forwarded to the Minister of Labour.

1. That the following persons agreed to by both Management and Labour, comprise the list of Arbitrators from which the Minister may draw when making appointments under The Labour Relations Act.

   (a list of seven names followed)

2. That persons on the above list be assigned to cases on a rotational basis.

The Committee also advised the Minister that additional names are being considered and may be added to the original list.

The Minister responded by indicating that she would take these recommendations seriously and asked that the Committee consider persons from Brandon, Thompson and Flin Flon as future additions to the list.

ERRATUM, PAGE 8-9

THERE IS NO RECORD OF ANY RECOMMENDATION REGARDING DOMINION DAY HAVING BEEN RECEIVED IN THE MINISTER'S OFFICE FROM THE LABOUR MANAGEMENT REVIEW COMMITTEE.

3) TRAINING OF ARBITRATORS

Acting on the premises that:

1. The supply of acceptable arbitrators in Manitoba is inadequate;
2. New arbitrators can be developed through a training program;
3. New arbitrators developed through such a program will have the potential for acceptability,

the Committee established a Working Group to study the arbitration situation and to make recommendations for increasing the supply and acceptability of arbitrators.

The Working Group submitted the following recommendations, which were endorsed by the Main Committee and forwarded to the Minister of Labour:

1. That a training program for Arbitrators be sponsored and administered by a panel of labour and management representatives and neutral experts in arbitration.

2. That the training program consist of academic and apprenticeship training as well as an internship.

3. That the academic component of the program cover
   1) labour-management responsibility in arbitration
   2) the legal status of arbitration and
   3) the arbitration process itself.

4. That the apprenticeship component would require trainees to attend a number of cases as observers.

5. That trainees would participate in a prescribed number of informal, practical seminars.

6. That each trainee be assigned as an intern to an experienced arbitrator for a period of time.

7. That trainee selection, according to prescribed criteria, be the responsibility of a selection panel.

4) THE MANITOBA LABOUR LAW REVIEW

The Committee is aware that the Government of Manitoba has established a Review to look into all aspects of Manitoba Labour Law.

After much debate on whether and when the Committee should become involved in this process, a consensus was reached that the Committee would review and advise on recommendations coming forth from the review.

The Committee has maintained contact with the Labour Law Review in various ways and has responded to a request for its input on the following topics:

1. Grievance Arbitration
2. Construction Industry Issues
3. Disclosure of Information

5) ESSENTIAL SERVICES AGREEMENT

After years of negotiations, an Agreement for the maintainance of essential services during work stoppages in health care facilities has been concluded and signed by the major health care facilities and all related unions at those facilities.

The full agreement follows:

Memorandum of Agreement for the Maintenance of Services That are Essential During Work Stoppages in Health Care Facilities

1. Services that are essential in a strike situation are those normally performed by one or more employees which, if not performed, would endanger life or limb.

2. The parties will endeavour to designate those functions which are essential on the understanding that the employer will take the necessary steps to ensure that any activities requiring the provision of essential services will be curtailed to as great a degree as possible.

3. All such services to be carried out would be determined on the basis of "work functions" and not on the basis of designating individual employees. An employee assigned by the union to provide an essential "work function" shall be selected from among the employees considered competent to perform such "work function" in the ordinary day to day operation of the unit.

4. a) Since the essentiality of a "work function" will vary between and within facilities, the determination of essentiality shall be made by the bargaining agent and the employer at least ten (10) calendar days prior to expiry of Collective Agreements.

   b) In order for essential services in a strike situation to be determined on a "work function" basis, designation by the employer shall take place on an episodic and emergency basis during the course of a work stoppage.

   c) An employee assigned by the union to provide an essential service designated by the employer, may be withdrawn by the bargaining agent, where the designation is inconsistent with the agreement of providing essential "work functions".

5. Any dispute with respect to the implementation of the agreement shall be referred, within twenty-four (24) hours, to a subcommittee of the Manitoba Labour Management Review Committee - Hospital Sector Working Party composed of two (2) non-involved union representatives and two (2) non-involved management representatives, and an independent voting chairperson; which must meet within twelve (12) hours. The independent chairperson shall be selected from the list as per the addendum attached to this Memorandum of Agreement. The list shall be revised on a regular basis by mutual agreement between the parties.

6. Wages or applicable remuneration for work performed by virtue of this agreement during the strike shall be payable as permitted by law and as agreed to by both parties.

7. Consistent with the union's assurance of performing such essential services during a strike and conditional thereon, the employer shall not hire additional persons, or utilize non-employees to perform work of employees who are otherwise legitimately withholding their labour as a result of the work stoppage.

8. This agreement is likewise conditional on a commitment by the employer and the union to meet within twenty-four (24) hours after the commencement of a strike and on a regular, recurring basis thereafter, with a view to resolving the dispute.

9. If in the opinion of the Employer, the continued safe operation of the health facility, within the context of this agreement, is endangered, the Employer may terminate the agreement by giving written notice to the Union of not less than forty-eight (48) hours.

10. If in the opinion of the Union, the actions of the Employer tend to circumvent the intent of the agreement, the Union may terminate the agreement by giving written notice to the Employer of not less than forty-eight (48) hours.

11. If either the Employer or the Union serves notice of termination pursuant to Clauses 9 or 10, the opposite party may refer the termination to the Labour Management Review Committee (pursuant to Clause 5) to investigate and give guidance to determine if there can be a consensus to continue the agreement.

12. Either party may give written notice of its intention to revise, amend or terminate this Memorandum of Agreement, not less than ninety (90) days prior to the date of termination of a collective agreement. Such notice shall be referred to the subcommittee of the Manitoba Labour Management Review Committee within seven (7) days of such notice, and the subcommittee shall deal with the amendments; or the notice of termination to determine if there can be a consensus to continue the agreement.

13. (Upon signing of this agreement, the Chairman of the Manitoba Labour Management Review Committee shall communicate the agreement to all health care facilities in the province. This to become part of the Transmittal letter and is not part of this document.)

Addendum to the Agreement
Re the Maintenance of Services that are Essential
During Work Stoppages in Health Care Facilities

List of chairpersons pursuant to Clause #5 of the Memorandum of Agreement. Selection from this alphabetical list, shall be on a rotating basis, subject to availability.

Sonny Arrojado	Joyce Gleason
John Atwell	Charles Huband
Jack Chapman	Cam MacLean
Art Coulter	D'Arcy McCaffrey
Wally Fox-Decent	Lawrie Mitchell
Martin Freedman	Lou Plantje

CONSTRUCTION REVIEW SUB COMMITTEE

Although the Construction Review Sub Committee held only two formal meetings during the year, as required, a number of specialized meetings were held between the parties.

It is most important that the members be available as problems develop in the industry in order that there be a harmonious

relationship between labour and management. Since the inception of the Construction Review Sub Committee the relationship between Construction labour and management has improved immensely.

Acknowledgements

The Committee would like to express its appreciation to the staff of the Department of Labour for the secretarial assistance they provided this past year.

Special Thanks

The Committee wishes to express its appreciation to Professor H. D. (Buzz) Woods and to Mr. Gordon Boucher for their participation in the work of the Committee over the years.

Professor Woods who died in 1983, served as Chairperson of the Manitoba Labour Management Review Committee for 15 years beginning with its inception in 1964. The founder of the Industrial Relations Centre at McGill University in Montreal, he was recognized as one of the top labour relations experts in Canada.

Mr. Gordon Boucher, former Assistant Deputy Minister of the Department of Labour, retired from the Provincial Government in 1983. He first served on the Committee in 1975 as a management member representing the Universities. On joining the civil service he became the government representative to the Committee and was instrumental in developing and implementing its new structure in place today.

APPENDIX A

COMMITTEE MEMBERSHIP

AND

WORKING PARTY MEMBERSHIPS

COMMITTEE MEMBERSHIP

SECTOR

MANAGEMENT		LABOUR
Paul Hart	Provincial Public Service	Gary Doer
Ray Whiteway	Schools	Wally Pindera
David Newman	Labour/Management at Large	Dick Martin
Hank Bloy	Mining and Processing	Eugene Laye
Dennis Sutton	Manufacturing	Bob Biggar
Brian Seigner Gerry Remillard	Health	Irene Giesbrecht
Lloyd Simmons	Construction	Leo Desilets
	Municipal Public Service	Keith Norton
John Perrin	Trade and Service	Bernard Christophe
Garth Metcalfe	Utilities	Bob Sproule
	Universities	

Chairperson	G. Campbell MacLean
Vice Chairperson	John Atwell
Secretary	Alec Jasen
Government Representative	Gordon Boucher Maurice C. Eyolfson

Hospital Sector Working Party

- for Essential Services Agreement

Labour	Management
Clive Derham	L. A. Quaglia
Gary Doer	Peter Swerhone
Irene Giesbrecht	Ted Bartman
Chairperson	G. Campbell MacLean
Vice-Chairperson	John Atwell

Sub-Committee -- Health

Labour	Management
Irene Giesbrecht	Gerry Remillard

Sub-Committee -- Schools

Labour	Management
Wally Pindera	Ray Whiteway

Sub-Committee -- Manufacturing

Labour	Management
Bob Biggar	Dennis Sutton

Sub-Committee on Disclosure and Technological Change Issues

Labour	Management
Eugene Laye	Dennis Sutton
Bob Biggar	Don Henderson
Chris Monk	Hank Bloy
Bruno Zimmer	Buddy Brownstone
Bernard Christophe	Bob May
William Haiko	Saul Scott

Chairperson - John Atwell

Sub-Committee on the Training of Arbitrators

Labour	Management
Wally Pindera	Ray Whiteway
Bernard Christophe	David Newman
Keith Norton	Brian Seigner Gerry Remillard

Chairperson - John Atwell

Sub-Committee - Labour/Management At Large

Labour	Management
Dick Martin	David Newman

Sub-Committee - Construction

Labour	Management
Leo Desilets	Robert Glass
William Iverson	Maurice Steel
G. Dobbie	Paul Herriot
Jerry Bentley	H. Rattai
Art Cameron	Cliff Olson

G. Campbell MacLean
John Atwell
Gordon Boucher
William Blankenship

POOR

QUALITY

ORIGINAL